

JURISDICTION:

**MONTANA**

General Reference:

This chapter summarizes Montana State statutes related to speed.  
Montana Code Annotated and Administrative Rules of Montana

Basis for a Speed Law Violation:

Basic Speed Rule:

Subject to the (maximum) statutory speed limits below, a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into account the amount and character of traffic, visibility, weather and roadway conditions.<sup>1</sup> §61-8-303(4)

Statutory Speed Limit:

75 MPH<sup>2</sup> at all times on Federal-Aid interstate highways outside an urbanized area with population ≥50,000 §61-8-303(1)(a)  
65 MPH<sup>2</sup> at all times on Federal-Aid interstate highways within an urbanized area with a population ≥50,000 §61-8-303(1)(a)  
70 MPH<sup>2</sup> during the daytime<sup>3</sup> and 65 MPH<sup>2</sup> during the nighttime<sup>3</sup> on any other public highway §61-8-303(1)(b)  
65 MPH at all times on U.S. Highway 93 between the Canadian and Idaho borders unless the highway is upgraded to a continuous four lane highway. §61-8-303(2)  
25 MPH in an urban district §61-8-303(5)

Posted (Maximum) Speed Limit:

I. The State Department of Transportation, based on engineering and traffic investigations which indicate that a greater or less speed limit than noted above is reasonable or safe, may establish different speed limits on a segment of a highway less than 50 miles in length. §61-8-309(1) The law does not specifically state whether different highway speed limits may be established either for different types of vehicles, for various weather conditions or for different times of the day.  
II. Based on engineering and traffic investigations, the State may establish safe maximum speed limits for bridges or other elevated structures. §61-8-313(2) & (3)  
III. Based on engineering and traffic investigations, a local government may increase or decrease the maximum speed limits on highways under its jurisdiction.<sup>4</sup> §61-8-310(1)

Basis for a Speed Law Violation:  
(continued)

Posted (Maximum) Speed Limit: (continued)

IV. A local government may establish speed limits on county roads (as defined under §60-1-103) without an engineering and traffic investigation. §61-8-310(1)(c) & (2)

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<sup>1</sup>**IMPORTANT.** The State supreme court has held that certain provisions of the State's previous basic speed rule were void for vagueness under the due process clause of the State's constitution. *State v. Stanko*, 974 P.2d 1132 (Mont. 1998)

<sup>2</sup>When traveling on a two lane road, a person may exceed this speed limit by 10 MPH in order to overtake and pass another vehicle. §61-8-303(3)

<sup>3</sup>"Daytime" means one-half hour before sunrise to one-half hour after sunset. "Nighttime" means any other hour except daytime. §61-8-303(6)

<sup>4</sup>I. However, the following limitations apply. (1) The posted speed limit in an urban district cannot be >65 MPH during the nighttime. §61-8-310(1)(b) (2) And, the posted speed limit outside an urban district cannot be <35 MPH. §61-8-310(1)(c) II. Also, based on engineering and traffic investigations, a local government may establish speed zones near schools or senior citizen centers and for the crosswalks that are close to them. The speed limit in such places cannot be <15 MPH. §61-8-310(1)(d) Note: The Montana Legislature has adopted a resolution encouraging city and county governments to lower the speed limit in school zones to 15 MPH. House Joint Resolution 25 (adopted in 1999)

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V. Under separate authority, a local government may determine the proper speed limits for all arterial streets under its jurisdiction. Such limits may be less or greater than the maximum speed limit provided for an urban district (§61-8-303). §§7-14-2113 & 61-8-310(3)

VI. The State Department of Transportation or a local government must establish appropriate speed limits in "construction zones"<sup>5</sup> and "work zones."<sup>6</sup> Note: This authority may also extend to utility companies and private contractors. §61-8-314(2), (3) & (4)

Minimum Speed Limit:

I. A motor vehicle may not be driven at a speed slow enough to impede or block the normal and reasonable movement of traffic. §61-8-311(1)

II. A person, driving at less than the normal speed of traffic, shall drive in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway. §61-8-321(2)

Posted (Minimum) Speed Limit:

Based on engineering and traffic investigations, the State or a local government may establish a minimum posted speed limit for all or part of a highway. §61-8-311(3)

Other:

I. For trucks with a >1 ton manufactures rated capacity, except for the maximum statutory limits per §61-8-303 and speeds limits established per §§61-8-309 & 61-8-310, the maximum speed limits are as follows:

(a) 65 MPH on completed sections of interstate highways; and,

(b) 60 MPH during the daytime<sup>3</sup> and 55 MPH during the nighttime<sup>3</sup> on four-lane divided highways and completed sections of primary and secondary highways. §61-8-312(1)(a) & (b)

II. Except for the maximum statutory limits per §61-8-303 and speeds limits established per §§61-8-309 & 61-8-310, special permit vehicles cannot be driven >55 MPH. §61-8-312(2)

III. A vehicle with sold rubber or cushion tires cannot be driven >10 MPH. §61-8-313(1)

### Adjudication of Speed Law Violations:

Civil/Criminal Adjudication of Violation:

All Speed Law Violations are Misdemeanors. §§61-8-314(2) & (5) and 61-8-711(1)

Other:

### Sanctions Following an Adjudication of a Speed Law Violation:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,

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<sup>5</sup>A "construction zone" is defined as "an area on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work is being performed by the department of transportation, a local authority, a utility company, or a private contractor under contract with the department of transportation or a local authority. A construction zone may include a work zone." §61-8-314(1)(a)

<sup>6</sup>A "work zone" is defined as "the area where the construction, repair, maintenance, or survey work is actually taking place." §61-8-314(1)(b)

Etc.):	None §§61-8-711(2) & 61-8-725(1)
Mandatory Minimum Term:	
Fine:	
Amount (\$ Range):	I. <b>Violation of Statutory Speed Limits Under §61-8-303.</b> <u>1 to 10 MPH</u> over the speed limit-\$ <b>20</b> ; <u>11 to 20 MPH</u> over the speed limit-\$ <b>40</b> ; <u>21 to 30 MPH</u> over the speed limit-\$ <b>70</b> ; and <u>31 or more MPH</u> over the speed limit-\$ <b>100</b> §61-8-725(1) II. <b>Other Speed Law Violations.</b> <u>1st offense-\$10 to \$100</u> <u>2nd offense</u> (within 1 year)-\$ <b>25 to \$200</b> <u>Subsequent offense</u> (within 1 year)-\$ <b>50 to \$500</b> §61-8-711(2)
Mandatory Min. Fine (\$):	None
Other Penalties:	
Traffic School:	Driver Improvement Program §61-2-302 & Administrative Rules of Montana 23.3.203
Other:	<b>Double Fines.</b> The fines are double the usual amount for exceeding the posted speed limit in a "work zone." §61-8-314(5)(a)
Licensing Action:	
Type of Licensing Action (Susp/Rev):	<b>Suspension</b> via Point System <sup>7</sup> -Frequent violator of the traffic laws.

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<sup>7</sup>**Driver Rehabilitation Point System.** I. If an offender accumulates 6 points within 18 months, they may be required to attend a counseling session or be subject to license re-examination. II. If an offender accumulates 15 or more points within 36 months, they are subject to a 6 month license suspension and must be referred to a Driver Rehabilitation Program. III. The following points are assigned to speeding and speed related violations: Engaging in race or speed contest (i.e., unauthorized speed contest)-5 points; driving recklessly-5 points; speeding in a restricted speed zone-3 points; speeding 25 MPH in an urban district-3 points; speeding 35 MPH in a construction zone-3 points; speeding >65 MPH at night on an interstate\*-3 points; speeding >55 MPH at night on other highways\*-3 points; driving certain trucks >55 MPH at night\*, >60 MPH at other times\* or >65 MPH on interstate highways\*-3 points; violating posted (restricted) speed limits established by either the State or local governments including a violation of the posted speed limit on bridges or elevated structures-3 points; towing a housetrailer >50 MPH\*-3 points; obstructing traffic by driving under the minimum reasonable speed (after being warned)-2 points; not driving in the right lane when operating a slow moving vehicle-2 points; violating the basic speed rule-2 points; and, careless driving-2 points. §61-5-206(1)(b), Administrative Rules of Montana 23.3.202(1), (2) & (3) and 23.3.203 **Important.** A violation of the statutory speed limits under §61-8-303 is not recorded on a person's driving record unless they exceed the speed by more than 10 MPH during the daytime or 5 MPH during the nighttime. §61-8-725(2)

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**Revocation** Habitual Traffic Offender<sup>8</sup> §61-11-201 et seq.

Sanctions Following an Adjudication of a Speed Law Violation:  
(continued)

Term of License Withdrawal  
(Days, Months, Years, etc.):

**Suspension-6 months** Administrative Rules of Montana 23.3.203(2)  
Note: The law limits a suspension to a maximum period of **1 year**. §61-5-208(1) **Revocation** (Habitual Offender)-**3 years** §§61-11-211 & 61-11-212

Mandatory Minimum Term of

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\*Due to amendments made to §§61-8-303 & 61-8-312 by respectively §§2 & 6 of Chapter 43 (Session Laws of 1999), this is no longer a specific violation of the law.

<sup>8</sup>**Habitual Offender Point System.** If a person accumulates 30 points within a 3 year period, they are subject to a 3 year license revocation. The following points are assigned to speeding and speed related offenses. Reckless driving-5 points; illegal drag race or engaging in a speed contest (i.e., unauthorized speed contest)-5 points; speeding-3 points; and, all other violations-2 points. §61-11-203(2)(h), (i), (l) & (m) **Important.** A violation of the statutory speed limits under §61-8-303 is not recorded on a person's driving record unless they exceed the speed by more than 10 MPH during the daytime or 5 MPH during the nighttime. §61-8-725(2)

Withdrawal:

**Suspension-None** Licensing action is discretionary **Revocation** (Habitual Offender)-**1 year**

Miscellaneous Sanctions  
Not Included Elsewhere:

Other Criminal Actions Related to Speeding:

Unauthorized Speed Contest (Drag Racing):

Misdemeanor §§61-8-308, 61-8-711(1) & 61-8-717

Sanctions:

Criminal Sanction:

Not more than **6 months** §61-8-717

Imprisonment (Term):

**None**

Mandatory Minimum Term:

Fine (\$ Range):

**\$50 to \$500** §61-8-717

Mandatory Minimum Fine:

**None**

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

**Suspension or Revocation**-See Driver Rehabilitation and Habitual Offender Point Systems respectively under Footnotes 7 & 8.

Length of Term of

Licensing Withdrawal:

Mandatory Action--Minimum

Length of License

Withdrawal:

Other:

**Double Fines.** The fine appears to be double the usual amount if the offense occurred in a "work zone." §61-8-314(2) & (5)(a)

Reckless Driving:

Misdemeanor §§61-8-301 & 61-8-711(1)

Sanction:

Criminal:

Imprisonment (Term):

1st offense-Not more than **90 days** Subsequent offense-**10 days to 6 months** §61-8-715(1)

Mandatory Minimum Term  
of Imprisonment:

**None**

Other Criminal Actions Related to Speeding:  
(continued)

Reckless Driving: (continued)

Fine (\$ Range):

1st offense-**\$25 to \$300** Subsequent offense-**\$50 to \$500** §61-8-715(1)

Mandatory Minimum Fine:

**None**

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

**Suspension or Revocation**-See Driver Rehabilitation and Habitual Offender Point Systems respectively under Footnotes 7 & 8. **Revocation-3**

<sup>9</sup>An offender may be issued restricted driving privileges after 1 year of the revocation period provided they participate in a driver rehabilitation program. §61-2-302(2)(a)(ii)

<sup>10</sup>If the offender commits a reckless driving offense while fleeing law enforcement officers, the following sanctions apply. For a 1st offense, there is imprisonment from **10 days to 6 months** and/or a fine from **\$300 to \$500**; and, for a subsequent offense, there is imprisonment from **30 days to 1 year** and/or a fine of from **\$500 to \$1,000** §61-8-715(2)

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Length of Term of License	reckless driving convictions within 12 months §61-5-205(6)
Withdrawal Action:	<b>Suspension or Revocation</b> -Not more than <b>1 year</b> §61-5-208
Mandatory Term of License	
Withdrawal Action:	<b>None</b>
Other:	<b>Double Fines.</b> The fine appears to be double the usual amount if the offense occurred in a "work zone." §61-8-314(2) & (5)(a)
<u>Reckless Endangerment of Highway Workers:</u>	
Sanction:	Misdemeanor §§61-8-315 & 61-8-711(1)
Criminal:	
Imprisonment (Term):	<u>1st offense</u> -Not more than <b>90 days</b> <u>Subsequent offense</u> - <b>10 days to 6 months</b> §61-8-715(1)
Mandatory Minimum Term of Imprisonment:	<b>None</b>
Fine (\$ Range):	<u>1st offense</u> - <b>\$25 to \$300</b> <u>Subsequent offense</u> - <b>\$50 to \$500</b> §61-8-715(1)
Mandatory Minimum Fine:	<b>None</b>
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Note: The law is not certain but the licensing actions that apply for a reckless driving offense conviction may also apply to this offense.
Length of Term of License	
Withdrawal Action:	
Mandatory Term of License	
Withdrawal Action:	
Other:	<b>Double Fines.</b> The fine appears to be double the usual amount if the offense occurred in a "work zone." §61-8-314(2) & (5)(a)
<u>Other Criminal Actions Related to Speeding:</u> (continued)	
<u>Careless Driving:</u>	
Criminal:	Misdemeanor §§61-8-302, 61-8-711(1) & 61-8-716
Imprisonment (Term):	<u>1st or subsequent offense</u> - <b>None</b> §61-8-711(2)
Mandatory Minimum Term of Imprisonment:	
Fine (\$ Range):	<u>1st offense</u> - <b>\$10 to \$100</b> <u>2nd offense</u> (within 1 year)- <b>\$25 to \$200</b> <u>Subsequent offense</u> (within 1 year)- <b>\$50 to \$500</b> §61-8-711(2)
Mandatory Minimum Fine:	<b>None</b>

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<sup>11</sup>Driving a motor vehicle in a highway construction zone in such a manner as to endanger persons or property. This offense also includes removing, ignoring or intentionally striking a traffic control device in a highway construction zone. §61-8-315 "Reckless endangerment of highway workers" also includes driving at a speed that is greater than is reasonable and proper under the existing conditions while proceeding past the signal or light of either a police or emergency vehicle. §61-9-402(4)(a) & (8) A person, who violates this requirement, is subject to the following sanctions. For a 1st offense, there is imprisonment from **10 days to 6 months** and/or a fine from **\$300 to \$500**; and, for a subsequent offense, there is imprisonment from **30 days to 1 year** and/or a fine of from **\$500 to \$1,000** §61-8-715(2)

<sup>12</sup>A person commits a "careless driving" offense if they do not operate a motor vehicle "in a careful and prudent manner so a not to unduly or unreasonable endanger the life, limb, property, or other rights of a persons entitled to the use of the street or highway." §61-8-302

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

**Suspension or Revocation**-See Driver Rehabilitation and Habitual Offender Point Systems respectively under Footnotes 7 & 8.

Length of Term of License

Withdrawal Action:

Mandatory Term of License

Withdrawal Action:

Other:

**Double Fines.** The fine appears to be double the usual amount if the offense occurred in a "work zone." §61-8-314(2) & (5)(a)

Commercial Motor Vehicle (CMV) Operators:

Grounds for Suspension:

A CDL license is suspended CMV if while driving a CMV a person either (1) commits more than 1 "serious traffic violations" within a 3 year period or (2) commit 3 or more such violations within a 3 year period. §61-8-803

Period of Suspension:

More than one (1) serious violations (within 3 years)-**60 days** 3 or more serious violations (within 3 years)-**120 days** §61-8-803(1)

Period of Mandatory Suspension:

More than one (1) serious violations (within 3 years)-**60 days** 3 or more serious violations (within 3 years)-**120 days** §61-8-803(1)

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<sup>13</sup> A person who has obtained a commercial driver's license (CDL) and is qualified to operate a commercial motor vehicle. A commercial motor vehicle is defined as a vehicle designed to carry either passengers or property and either has a gross vehicle weight of ≥26,001 lbs., is designed to carry 16 or more persons, or is transporting hazardous materials which requires that the vehicle to be placarded in accordance with U.S. Department of Transportation regulations. §61-1-134

<sup>14</sup> A "serious traffic violation" includes exceeding the speed limit by 15 or more MPH or reckless driving. §61-8-803